IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE FIRST DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

and
HON'BLE SRI JUSTICE C.V.RAMULU

WRIT APPEAL NO : 1603 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 26/08/2004 in WP NO : 16929 OF 1994 on the file of the High Court.)

Between:

1. Kacherlakota Venkata Laxmanarao Died S/o Venkatarao R/o Peddavem, Tallapudi Mandal, West Godavari District
2. Kacherlakota Venkata Satya Janardhana Rao S/o Venkatarao R/o Peddavem, Tallapudi Mandal, West Godavari District
3 Kacherlakota Venkta Surya Prakasa Rao S/o Venkatarao R/o Peddavem, Tallapudi Mandal, West Godavari District
4 Kacherlakota Annamraju S/o Venkatarao ' R/o Peddavem, Tallapudi Mandal, West Godavari District
5 Kacherlakota Veeravenkata Krishna Rao S/o Venkatarao R/o Peddavem, Tallapudi Mandal, West Godavari District
6 Kacherlakota Venkta Srerama Chandra Rao S/o Venkatarao R/o Peddavem, Tallapudi Mandal, West Godavari District
7 Kacherlakota Venkta Hanumantha Rao S/o Venkatarao

R/o Peddavem, Tallapudi Mandal, West Godavari District.

8 Kacherlakota Venkata Satyanarayana murthy s/o Chalapathi Rao
R/o Peddavem, Tallapudi Mandal, West Godavari District
9 Kacherlakota Venkta Suryaprakasa Rao S/o Chalapathi
R/o Peddavem, Tallapudi Mandal, West Godavari District
10 Kacherlakota Venkata Rama Rao s/o Chalapathi Rao
R/o Peddavem, Tallapudi Mandal, West Godavari District
11 Rallabandi Prabhakar Rao S/o narayana Rao
R/o Peddavem, Tallapudi Mandal, West Godavari District
12 Nallakula Venkata Ramana S/o Venkanna
R/o Peddavem, Tallapudi Mandal, West Godavari District
13 Nallakula Satyavathi W/o Venkata Krishna Rao
R/o Peddavem, Tallapudi Mandal, West Godavari District
14 Smt. K.V. Satyavathi W/o Venkatarao
R/o Gandhipuram Rajahmundry
15 K. Kanthi Kiran S/o Late Venkatarao
R/o Gandhipuram Rajahmundry
16 K. Venkata Rao S/o late Venkatarao
Wada Branch, Dist Thane, Maharashtra

..... APPELLANTS

AND

1 The District Collector, West Godavari District, Eluru, rep by State of A.P.
2 Revenue Divisional Officer, Kovvur, West Godavari District

.....RESPONDENTS

Counsel for the Appellants : MR.M.V.SURESH

Counsel for the Respondents: GP FOR LAND ACQUISITION.

The Court made the following :

ORAL JUDGMENT:

(per Hon'ble The Chief Justice)

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1 . Two notifications, namely, F.S.W.51/1994 and F.5/131/94 dated 29.07.1994 issued by the Collector, West Godavari District and published in West Godavari District Gazette Extraordinary on 05.08.1994 and 06.08.1994 respectively were challenged by the petitioners in the writ petition on number of grounds. There was interim order in the writ petition directing that the petitioners' possession will not be disturbed pursuant to the notifications. Writ petition came to be decided by the order dated 26.08.2004. Learned single Judge noticed that simultaneous issuance of notifications under Sections 4 and 6 of Land Acquisition Act (for short 'the Act') was bad. Therefore, while disposing of the writ petition, it was directed that since petitioners were not served with notices as contemplated under Section 5-A of the Act, the enquiry as required under Section 5-A be now completed within six weeks and till such time, interim stay granted by the Court shall continue. Petitioners – appellants are now aggrieved by the said order.

2. The law envisages that simultaneous notifications under Sections 4 and 6 of the Act cannot be issued in case notice under Section 5-A of the Act has to be dispensed with. In this case notification dated 29.07.1994, which was published on 05.08.1994, was issued under Section 4 of the Act and another notification of the same day, which was published on 06.08.1994, was issued under Section 6 of the Act authorizing the District Collector under Section 17(2) of the Act to exercise his powers and take possession as per Section 9(1) of the Act after fifteen days of the publication. Section 17(4) of the Act says that in the case of any land to which, in the opinion of the appropriate Government, provisions of sub-Section (1) or sub-Section (2) of Section 17 are applicable, appropriate Government may direct that the provisions of Section 5-A shall not apply, and, if it does so direct, a declaration may be made under Section 6 in respect of the land at any time after the date of the publication of the notification under Section 4, sub-Section (1). Since

declaration was also made on the same day i.e., 29.07.1994 unnecessarily, learned single Judge ought to have quashed and set aside the notification under Section 6 of the Act, which was made on 29.07.1994, with liberty reserved to the writ petitioners to submit their objections under Section 5-A of the Act and then liberty would have reserved to the respondents to proceed in accordance with law. Learned single Judge did not specifically direct so. Accordingly we allow the appeal and modify the impugned order declaring that notification dated 29.07.1994 issued under Section 6 read with Section 17(2) of the Act and all proceedings taken thereunder shall stand quashed. Learned counsel for the petitioners – appellants submits that petitioners – appellants have submitted their objections under Section 5-A of the Act. Accordingly we direct 2nd respondent to proceed to hear objections and thereafter proceed in the matter in accordance with law and in case petitioners – appellants still feel aggrieved, they can avail of the remedy in accordance with law. No costs.

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DEVINDER GUPTA. C.J.,

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C.V. RAMULU. J.,

Dated: 01.11.2004.

VRK.

To

1 The District Collector, West Godavari District, Eluru.
2 The Revenue Divisional Officer, Kovvur, West Godavari District.

3. Two CCs to G.P. for Land Acquisition, High Court Buildings, Hyderabad (OUT).

4. Two CD copies.

HON'BLE SRI DEVINDER GUPTA,
CHIEF JUSTICE
AND
HON'BLE SRI JUSTICE C.V. RAMULU.

W.A.NO. 1603 OF 2004.

(Judgment of the Bench delivered by
Hon'ble The Chief Justice)

Dt: 01.11.2004.

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